



STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

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CABLE TELEVISION

IN THE MATTER OF THE PETITION OF HOMETOWN
ONLINE, INC. FOR A CERTIFICATE OF APPROVAL
TO PROVIDE VIDEO SERVICES IN THE TOWNSHIP OF
WEST MILFORD, PASSAIC COUNTY, NEW JERSEY

CERTIFICATE OF APPROVAL

DOCKET NO. CE02030211

Rothfelder Stern, Westfield, New Jersey, by Martin C. Rothfelder, Esq., for the Petitioner.

Township Clerk, Township of West Milford, New Jersey, by Kevin J. Byrnes, for the Township.

BY THE BOARD:

On March 27, 2002, Hometown Online, Inc. ("Petitioner") filed a petition for a Certificate of Approval for the construction and operation of a cable television system in the Township of West Milford ("Township"). The Petitioner is a subsidiary of WVT Communications (formerly Warwick Valley Telephone), an incumbent local exchange carrier authorized to provide telephone services in New Jersey to the Township and the Township of Vernon.

The petition indicates that the Petitioner filed an application for municipal consent with the Township on October 18, 2001, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-11. The Township held a public hearing on the application, pursuant to N.J.S.A. 48:5A-23(b). The Township adopted an ordinance granting municipal consent to the Petitioner on March 20, 2002. On March 25, 2002, the Petitioner formally accepted the terms and conditions of the ordinance, in accordance with N.J.S.A. 48:5A-24.

Cablevision of Warwick, LLC ("Cablevision") is also authorized to provide cable service to the Township, pursuant to Docket No. CE95030125. Both the Petitioner and Cablevision have been granted municipal consent to serve the entirety of the Township, although the Township has specified that the Petitioner shall initially provide service to those areas where WVT Communications currently provides service, as specified on Exhibit 1 of the Township's ordinance, attached hereto as Appendix "I".

The Board has reviewed the application for municipal consent, the petition for a Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Certificate of Approval. Further, the Township reviewed these qualifications in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to -29 and N.J.A.C. 14:18-11.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The franchise period as stated in the ordinance is ten years. The Board finds this period to be of reasonable duration.
4. The Township may review the performance of the Petitioner with regard to the ordinance at its discretion. If the Township determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, the Township shall provide written notice to the Petitioner of such alleged instances of non-compliance and shall grant the Petitioner an opportunity to cure such deficiency. The Township may petition the Board for appropriate administrative action, including revocation of the franchise or reduction of the franchise term, only after the opportunity to cure has passed and the deficiency has not been cured.
5. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
6. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer to receive and act upon complaints filed by subscribers in the Township. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
7. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. The current local office meeting the requirements of this provision is located at 529 Route 515 in the Township of Vernon, New Jersey.
8. The franchise fee to be paid to the Township is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Township. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of the Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.

9. The Petitioner shall provide service to all areas within the Township where WVT Communications currently provides telephone service or any other area where it may extend services in the future. Within this area, the Petitioner shall provide service to all residential and commercial structures within 4,100 feet of WVT Communications' central office, remote office facilities, or Next Generation Digital Loop Carrier, within the WVT Communications' rights-of-way and within one span of existing communications services. Any additional extension of the system which is necessary in the future shall be made in accordance with rules and regulations set forth by the Board and included in WVT Communications' tariff for telecommunications service on file with the Board.
10. The Petitioner shall complete construction within the primary service area defined as "Area A" on Appendix "I" by no later than two years from the date of this Certificate. After the first two years subsequent to the date of this Certificate, if the Petitioner realizes a subscription rate of 30% of potential subscribers in the Petitioner's video service area, it shall extend its primary service area to the streets defined as "Area B" on Appendix "I" within three years from the date of this Certificate.
11. The Petitioner shall provide one or more local origination channel(s) in accordance with its application and the ordinance. The Petitioner shall allow use of the channel(s) for educational and governmental access at the request of the Township or the Board of Education. The Petitioner shall make available the necessary equipment so that one-half inch VHS tapes may be aired in order to provide such educational and governmental access programming. The Petitioner retains discretion in whether to air tapes submitted by the general public.
12. Upon at least five days' notice, the Petitioner shall cablecast, within 48 hours, but in no event more than 96 hours after, the following: a) Township Council meetings; b) Township Planning Board meetings; c) Township Zoning Board of Adjustment meetings; d) Township Board of Education meetings; and/or e) any other meeting of the Township's governmental bodies upon five days' prior notice to the Petitioner. The Petitioner shall provide an employee or agent to tape such meetings, or in the alternative, provide necessary equipment, training and advisory personnel to allow the Township to tape such meetings.
13. The Petitioner shall provide basic cable service including a residential gateway, which can service up to three televisions, free of charge, for non-commercial purposes, to: a) Hillcrest School; b) all other public schools; c) Town Hall; and d) public library, within the primary service area of the Township, including future extensions of the service area.
14. The Petitioner has agreed to implement a senior citizens/disabled citizens discount in the amount of 10% of broadcast basic service and the residential gateway converter unit, to any senior or disabled citizen who meets the income and residency requirements of the Pharmaceutical Assistance to the Aged and Disabled (PAAD) program.

15. Upon written request, the Petitioner shall appear at a public meeting of the Township Council at least once per year. At the meeting, the Petitioner shall provide a report on the past year's service record. The meeting shall be open to the public and they shall be provided an opportunity to comment on or question the performance of the Petitioner. In addition, at least once per year, upon 14 days notice, the Petitioner shall meet with the Township's Cable Oversight Committee to discuss any and all issues related to provision of service by the Petitioner.
16. If the Petitioner enters into an agreement with any municipality in New Jersey, within 18 months of the final adoption of the Township's ordinance, for similar duration, that offers more favorable terms than that granted to the Township, the Petitioner shall offer the same terms to the Township.

Based upon these findings, the Board HEREBY CONCLUDES, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), that the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Certificate of Approval as evidence of the Petitioner's authority to construct and operate a cable television system within the entirety of the Township. However, WVT Communications does not provide telephone service to the entirety of the Township and therefore, the Petitioner is limited as to where it can currently provide service. However, the Petitioner has been granted authority by the Township to extend its service throughout the Township in case WVT Communications decides to extend its service territory. The Board's grant of authority is subject to the following condition:

The Petitioner shall provide the Office of Cable Television with construction status reports every 60 days, beginning 30 days from the date of issuance of this Certificate. Reporting shall continue until the construction is completed and the Office of Cable Television notifies the Petitioner that no further reports are necessary. The reports shall include, but not be limited to, the following: 1) an account of the total miles of fiber projected, both aerial and underground; 2) the total miles of fiber yet to be built, both aerial and underground; 3) miles of aerial fiber constructed; 4) miles of underground fiber constructed; 5) total fiber miles constructed; 6) miles of fiber placed in service; 7) locations of central, host, and/or remote office locations which are currently video capable; 8) number of video capable (node independent) access lines by office location; 9) number and location of NGDLC nodes placed into service; and 10) number of NIDs/protectors changed out (number of activated video service customers).

This Certificate is subject to all applicable state and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof, shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire ten years from the date of its issuance

DATED: June 10, 2002

BOARD OF PUBLIC UTILITIES
BY:

(signed)

JEANNE M. FOX
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO
SECRETARY